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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,576	12/17/2001	Hans-Ullrich Schmidt	3993.004	6169

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EXAMINER

LEYSON, JOSEPH S

ART UNIT

PAPER NUMBER

1722

DATE MAILED: 06/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/022,576

Applicant(s)

SCHMIDT ET AL.

Examiner

Joseph Leyson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

1. The disclosure is objected to because of the following informalities: on p. 5, line 16, "and" (first occurrence) should be changed to --end-- for proper spelling; and on p. 5, line 18, "21" should be changed to --12-- for proper numerical correspondence.

Appropriate correction is required.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 28. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. Claim 9 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. A co-extrusion nozzle by definition has at least two extrudate flows, and thus claim 9 is redundant to the co-extrusion nozzle of claim 1.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites a co-extrusion nozzle which inherently has at least two extrudate flows. Thus, claim 1 can not recite that the extrudate includes at least one plastic as at least one component (i.e., one extrudate flow). Claim 8 specifically recites at least two extrudate flows, which further questions whether applicant is attempting to claim a co-extrusion nozzle with one extrudate flow which is incorrect. The examiner suggest canceling claim 8 and incorporating it into claim 1.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3 and 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by EP (0,243,516) . .

EP (0,243,516) teach a coextrusion nozzle arrangement including a distributor portion 1 adjacent an extruder for delivery of an extrudate, a nozzle portion 4, 7a, 7b, 6b for the extrusion of the extrudate which includes two extrudate flows, a mounting and connecting base 3 between the distributor portion 1 and the nozzle portion, whereby the mounting and connecting base 3 is shaped and constructed for holding the nozzle portion in a predetermined installation arrangement by a clamp 5 which is maintained relative to the distributor portion 1 during the dismantling of the mounting and connecting base 3 together with the nozzle portion. The mounting and connecting base 3 includes connecting channel for connecting the channels in the distributor portion 1 with the channels in the nozzle portion, and the distributor portion 1 and the nozzle portion include channel extensions which bridge a spacing between these portions due to the size of the mounting and connecting base 3 (see fig. 1). The mounting and installation base 3 includes several annular disks with intermediate annular connecting conduit gaps, interrupted by webs 18, for the passage of extrudate (see fig. 3). Holes 15 and bolts 12 define a tensioning means for fastening the mounting and connecting base 3 to the distributor portion 1 and define a centering arrangement for centering the mounting and connecting base 3 to the distributor portion 1. A

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second centering member 14 aligns and centers the nozzle portion relative to the mounting and connecting base 3.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP(0,243,516) in view of St. Eve(-083).

EP(0,243,516) discloses the apparatus substantially as claimed as mentioned above, except for sealing means as recited by the instant claims.

St. Eve(-083) discloses gaskets 11 for preventing leaks between components of extrusion dies. Note that the gaskets will develop a larger sealing force or action when interior pressure is applied from the mounting screws of the apparatus.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the apparatus of EP(0,243,516) with gaskets because such a modification would prevent leaks as disclosed by St. Eve(-083).

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hegler(-676), Hegler et al.(-644), Hauck(-646), Hegler(-347) and Lupke(-805) are cited as of interest.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Leyson whose telephone number is (703) 308-2647. The examiner can normally be reached on M-F(8:30-6:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on (703) 308-0457. The fax phone numbers for the organization where this application or proceeding is assigned

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are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



jl  
June 2, 2003



JAMES P. MACKEY  
PRIMARY EXAMINER

6/2/03